



DELTA STEWARDSHIP COUNCIL

A California State Agency

980 NINTH STREET, SUITE 1500
SACRAMENTO, CALIFORNIA 95814
HTTP://DELTACOUNCIL.CA.GOV
(916) 445-5511

September 13, 2017

Chair
Randy Fiorini

Scott Buenting, Project Manager
City of Antioch
200 H Street
Antioch, CA 94509

Members
Frank C. Damrell, Jr.
Patrick Johnston
Susan Tatayon
Skip Thomson
Ken Weinberg
Michael Gatto

Executive Officer
Jessica R. Pearson

Via email: SBuenting@ci.antioch.ca.us

RE: Comments on Notice of Preparation of an Environmental Impact Report and Scoping Meeting for the Proposed City of Antioch Brackish Water Desalination Project, SCH# 2017082044

Dear Mr. Buenting:

Thank you for the opportunity to review and comment on the City of Antioch Brackish Water Desalination Project Notice of Preparation of an Environmental Impact Report (NOP). The Delta Stewardship Council (Council) applauds City of Antioch's (City) goal to improve water supply reliability and water quality for its customers, especially during droughts and future changes in Delta water management, and to provide operational flexibility for the City.

As you may know, the Council is a State agency created through the Delta Reform Act of 2009 to develop and implement a legally enforceable long-term management plan for the Delta and Suisun Marsh. The Delta Plan applies a common sense approach based on the best available science to achieve the coequal goals of protecting and enhancing the Delta ecosystem and providing for a more reliable water supply for California, while protecting and enhancing the unique cultural, recreational, and agricultural values of the Delta as an evolving place.

State and local agencies are required to certify their projects' consistency with the Council's 14 regulatory policies if their proposed activity is a "covered action" under the Delta Plan, which includes plans, programs, or projects (as defined in section 21065 of the Public Resources Code) that would occur, in whole or in part, within the Delta or Suisun Marsh.

Based on the NOP description, Council staff believes your project meets the definition of a covered action. According to the Delta Reform Act, it is the state or local agency approving, funding, or carrying out the project that ultimately must determine if that project is a covered

"Coequal goals" means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place."

– CA Water Code §85054

action and, if so, file a certification of consistency with the Delta Plan. As the City proceeds with design, development, and environmental impact analysis of the project, we strongly encourage you to engage in early consultation with Council staff to help you with the covered action determination process. Council staff, including staff from the Delta Science Program, can provide assistance in the use of best available science and adaptive management during this early consultation. State or local agencies may call or email to schedule a consultation with Council staff. More information on covered actions and the certification process can be found on the Council website, <http://deltacouncil.ca.gov/covered-actions>.

For the purposes of compliance with both the Delta Reform Act and CEQA, we offer comments below for your consideration in preparation of the Environmental Impact Report (EIR).

Comments on the Notice of Preparation

Regulatory Setting: Council staff suggests that the Delta Plan, including its policies and recommendations, be acknowledged in the EIR's description of the regulatory setting for each applicable resource section.

Inconsistencies with the Delta Plan: The EIR should discuss any inconsistencies between the proposed project and the Delta Plan, as required by 15125(d) of CEQA Guidelines. Please note that the CEQA Guidelines' Appendix G states that a project that is inconsistent with any applicable land use plan, policy, or regulation may result in a finding of significant impact on biological resources.

Mitigations Measures: Delta Plan Policy **G P1** (23 Cal. Code Regs. section 5002) requires that actions not exempt from CEQA and subject to Delta Plan regulations must include applicable feasible mitigation measures consistent with those identified in the Delta Plan Program EIR or substitute mitigation measures that are equally or more effective. Mitigation measures in the Delta Plan's Mitigation and Monitoring Report Program are available at: http://deltacouncil.ca.gov/sites/default/files/documents/files/Agenda%20Item%206a_attach%202.pdf

The NOP states that the EIR will address direct, indirect, and cumulative effects in each of the following CEQA environmental issue areas:

- | | | |
|--------------------------------------|-----------------------------------|--------------------------|
| • Aesthetics | • Greenhouse Gases | • Population and Housing |
| • Agriculture and Forestry Resources | • Hazards and Hazardous Materials | • Public Services |
| • Air Quality | • Hydrology and Water Quality | • Recreation |
| • Biological Resources | • Land Use and Planning | • Transportation/Traffic |

- Cultural Resources
- Mineral Resources
- Tribal Cultural Resources
- Geology and Soils
- Noise
- Utilities, Energy and Service Systems

Available information suggests the proposed project will enable diversions to be made year-round and those diversions could be larger than those historically made at the intake location. The Council will be interested in reviewing the impact analysis for not only the direct, but also the indirect and cumulative effects of the project on the ecosystem related to the additional withdrawals of water from the system.

Another point of interest is the impacts of brine disposal on water quality (including salinity, temperature, and contaminants such as pesticides) downstream of the Delta Diablo outfall at New York Slough. The Council will be interested in reviewing the impact analysis for the proposed disposal of the brine, including its impacts to the aquatic and terrestrial environment, and any proposed mitigation of potentially significant impacts.

The Council also is interested in how potential reductions in water purchased from the Contra Costa Water District due to this project would affect the ecosystem as well as regional water supply reliability.

Comments regarding Applicable Delta Plan Policies

The following is a list of Delta Plan policies that may be applicable to your project based on the available information.

Best Available Science and Adaptive Management: Delta Plan Policy **G P1** states that actions subject to Delta Plan regulations must document use of best available science as relevant to the purpose and nature of the project. The regulatory definition of "best available science" is provided in Appendix 1A of the Delta Plan

(<http://deltacouncil.ca.gov/sites/default/files/2015/09/Appendix%201A.pdf>)

Delta Plan Policy **G P1** also requires that ecosystem restoration and water management covered actions include adequate provisions for continued implementation of adaptive management, appropriate to the scope of the action. This requirement is satisfied through A) the development of an adaptive management plan that is consistent with the framework described in Appendix 1 B of the Delta Plan

(<http://deltacouncil.ca.gov/sites/default/files/2015/09/Appendix%201B.pdf>), and B) documentation of adequate resources to implement the proposed adaptive management plan.

Land Use Conflicts: Policies related to locating new urban development wisely, and respecting local land use when siting water or flood facilities or restoring habitats. Delta Plan Policy **DP P1** (23 Cal. Code Regs. section 5010) states that new residential, commercial, or industrial development is permitted outside the urban boundaries only if it is consistent with the

Scott Buenting, Project Manager
City of Antioch
September 13, 2017
Page 4

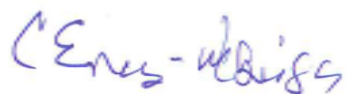
land use designated in the relevant county general plan. It is intended to strengthen existing Delta communities while protecting farmland and open space, providing land for ecosystem restoration needs, and reducing flood risk. You may want to consider if this applies due to the project's location near Park Middle School. Delta Plan Policy **DP P2** (23 Cal Code Regs. section 5011) states that plans for ecosystem restoration must be sited to avoid or reduce conflicts with existing uses when feasible. This policy may be relevant if you propose any ecosystem restoration mitigation measure(s).

Hydrology: Please consider Delta Plan Policy **RR P3** (23 Cal. Code Regs. section 5014) which restricts encroachment in floodway. Policy **RR P3** states that "no encroachment shall be allowed or constructed in a floodway unless it can be demonstrated by appropriate analysis that the encroachment will not unduly impede the free flow of water in the floodway or jeopardize public safety". Please consider if this applies to any proposed new facilities.

Closing Comments

The Council would like to work with you to ensure the consistency of the Brackish Water Desalination Project with the Delta Plan and we look forward to continued coordination to further our related efforts. We are available to continue discussions about how to ensure that your project is consistent with the Delta Plan as you proceed in the next stages of your project approval process. The Delta Science Program's Adaptive Management Liaisons are available to provide further consultation and guidance to help the City with the appropriate application of best available science and adaptive management. Please contact Marina Brand of our Delta Science Program at (916) 445-5031 or marina.brand@deltacouncil.ca.gov for any questions about adaptive management. I encourage you to contact my staff member Anthony Navasero (Anthony.Navasero@deltacouncil.ca.gov) with any other questions, comments, or concerns.

Sincerely,



Cassandra Enos-Nobriga
Deputy Executive Officer
Delta Stewardship Council